Exhibit C

In The Matter Of:

Rackliff vs. C.R. Bard

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exempt snare, which is a different device. It's not specific for any type of unit, but it can injure, too. That's why not all filters can be recovered. They have to have -- some of our clients have had to have it surgically removed because you cannot recover with the filter.

Q In any of the cases that you've been specifically retained in, have you seen any indication that the Recovery Cone was implicated in a particular patient's injuries?

A No, not in the cases I have.

Q Have you read any medical literature where the Recovery Cone was implicated with a patient's injuries?

A I haven't looked for that. I haven't focused on that. I know that -- I haven't focused on that.

Q Okay. It's your opinion that the Recovery filter was adulterated and misbranded?

A Yeah. It didn't perform as cleared. It was cleared as a -- as a permanent filter, and it did not perform as a -- it didn't perform like the SNF or any other permanent filter.

Q Now --

A So that makes it adulterated right there. It's not the device that's cleared.

Q Prior --

report, I think they had signals that there was an issue with the Recovery filter early on in terms of it not performing like the cleared product, and they didn't respond in a -- in a timely manner to ensure the safety of the public. So that would be a criticism.

In terms of their complaint handling, failure investigation, letting products stay out on the market, which was -- were out of spec, not conducting a recall, removing product from the market that was not performing the way it was designed, not notifying physicians about the potential risks, not ensuring that patients were handed these filters that explanted in a timely manner, those are criticisms. I would look at that as criticisms of quality assurance post-market marketing.

And then also in terms of quality assurance, some of the -- the labeling in terms of marketing because that would be some of the claims that they are making about the product. Again, that would feed into physician.

Q Have you seen any evidence that there -- Bard did not appropriately follow federal regulations in how it -- in its complaint handling process?

A Well, now when you say follow federal regulations, that sounds like a legal conclusion. I

think the courts usually determine that; the judge, jury, people about that.

In terms of what the regulations require as far as if I was a consultant explaining what the regulations, yes, I would -- I would have said that they should have recalled the product. And I think I said it in my report in 2004, because to me, it's a prohibited act to sell a product that's adulterated and misbranded. It's not behaving as cleared in a 510(k).

Q I'm not talking about what kind of moves as far as the commercial sale of the product. I'm talking about complaint handling. The FDA has requirements that when a manufacturer receives notice of an adverse event or a potential adverse event, they are required to investigate it. Isn't that correct?

A Yes, they are, and that's just part of quality systems 21 CFR 820.

Q And they then have to submit a MDR, a medical device report, to the FDA regarding that investigation, correct?

A No, not necessarily. 21 CFR 803 allows the company to make a determination of whether something is reportable or not reportable. Oftentimes companies will say if something is in a label, then it's not reportable.

Q BY MR. NORTH: And so it's your opinion that its off-labeled use of the Recovery filter in 2004 to implant it in a patient contraindicated for anticoagulation and with a history of recurrent pulmonary embolus if they are likewise a bariatric surgery patient?

MR. LOPEZ: Objection to the form.

THE WITNESS: Well, that's a different question, because now you are going through the indicated use. It could be because the company knows they have done no research on anything about a bariatric patient. And a bariatric patient is anatomically totally different than a patient of normal weight. And so there are new risks in terms of the -- and the company knows there is risks in terms of the inferior vena cava, and they've done no research.

So let the doctor know they've done no research to make sure it's safe. He may want to put in something else. He may want to consider whether she should be on heparin, or the patient. So let the doctor know that this has never been looked at for this patient population. Don't just give him something and tell him or her that it's safe to give for a bariatric patient, and then when the bariatric patient dies, they go, well, they were bariatric patients. They were

morbidly obese. They had clots.

You can't do that. That's not -- that's not allowed in terms of the requirements. It's a prohibited act to sell a device that's not safe and effective and adequately labeled. You are not adequately informing the physician about this device before he implants it in a patient.

Q BY MR. NORTH: Is it your opinion that the Recovery filter should have been contraindicated in all morbidly obese patients?

A Theoretically that would have been one option for Bard, particularly since they knew in 2004 the complications in bariatric populations were common and that they had somehow been involved in promotion of it for bariatric use, and now it wasn't safe and attracting deaths.

So to contraindicate it would have been -- made perfect sense. It would have been an option for Bard, and they could go into the FDA and say, you know, we are aware of off-labeled use. We have never tested it for this. These patients are dying. To protect public health, we are going to make a change in our label and contraindicate it for our patients using our filter. So that would have been one option for Bard to protect safety.